

**PART II—NATIONAL EDUCATION STATISTICS**

**TITLE IV—NATIONAL EDUCATION  
STATISTICS**

(Title IV of Public Law 103–382)

**SEC. 401. [20 U.S.C. 9001 note] SHORT TITLE.**

This title may be cited as the “National Education Statistics Act of 1994”. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4029.

**SEC. 402. [20 U.S.C. 9001] FINDINGS; PURPOSE; DEFINITIONS.**

(a) **FINDINGS.**—The Congress finds that—

(1) a Department of Education was established in 1867 “for the purpose of collecting such statistics and facts as shall show the condition and progress of education in the several States and territories, and of diffusing such information respecting the organization and management of schools and school systems and methods of teaching as shall aid the people of the United States in the establishment and maintenance of efficient school systems, and otherwise promote the cause of education throughout the United States”;

(2) today, while the role of the current Department of Education is much broader, the National Center for Education Statistics within the Office of Educational Research and Improvement continues to perform those crucial original purposes; and

(3) looking to the 21st century, the National Center for Education Statistics must be able to design and undertake, effectively and efficiently, statistical activities that will aid in the reform of the Nation’s educational systems.

(b) **PURPOSE.**—It is the purpose of this title to ensure the continuation of an effective mechanism for collecting and reporting statistics and information showing the condition and progress of education in the United States and other nations in order to promote and accelerate the improvement of American education.

(c) **DEFINITIONS.**—For the purpose of this title and unless otherwise specified—

(1) the term “Assistant Secretary” means the Assistant Secretary for Educational Research and Improvement established under section 202(b)(1)(E) of the Department of Education Organization Act;

(2) the term “Department” means the Department of Education;

(3) the term “institution of higher education” has the same meaning given such term in section 101 of the Higher Education Act of 1965;

(4) the term “local educational agency” has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965;

(5) the term “Secretary” means the Secretary of Education;

(6) the term “State educational agency” has the same meaning given such term in section 14101 of the Elementary and Secondary Education Act of 1965; and

(7) the terms “State” and “United States”—

(A) other than for the purpose of section 411, mean each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico; and

(B) for the purpose of section 411, have the same meaning given such terms in subparagraph (A), except that such terms include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4029.

**SEC. 403. [20 U.S.C. 9002] NATIONAL CENTER FOR EDUCATION STATISTICS.**

(a) ESTABLISHMENT.—There is established, within the Office of Educational Research and Improvement established under section 208 of the Department of Education Organization Act, a National Center for Education Statistics (hereafter in this title referred to as the “Center”).

(b) COMMISSIONER AND ASSOCIATE COMMISSIONERS.—

(1) COMMISSIONER.—The Center shall be headed by a Commissioner of Education Statistics (hereafter in this title referred to as the “Commissioner”) who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(A) have substantial knowledge of programs assisted by the Center;

(B) be paid in accordance with section 5315 of title 5, United States Code; and

(C) serve for a term of four years, with the terms to expire every fourth June 21, beginning in 1995.

(2) ASSOCIATE COMMISSIONERS.—The Commissioner may appoint such Associate Commissioners as the Commissioner determines are necessary and appropriate. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4030.

**SEC. 404. [20 U.S.C. 9003] DUTIES OF THE CENTER.**

(a) DUTIES.—The duties of the Center are to collect, analyze, and disseminate statistics and other information related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State by State basis), and disseminating full and complete statistics on the condition and progress of education, at the preschool, elementary, secondary, and postsecondary levels in the United States, including data on—

(A) State and local education reform activities;

(B) student achievement at all levels of education;

(C) secondary school completions, dropouts, and adult literacy;

(D) educational access to and opportunity for postsecondary education, including data on financial aid to postsecondary students;

(E) teaching, including data on course-taking, instruction, the conditions of the education workplace, and the supply of, and demand for, teachers, which may include data on the proportions of women and men, cross-tabulated by race or ethnicity, teaching in subjects in which such individuals have been historically underrepresented;

(F) the learning and teaching environment, including data on libraries;

(G) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety;

(H) the financing and management of education, including data on revenues and expenditures; and

(I) the social and economic status of children;

(2) conducting and publishing reports and analyses of the meaning and significance of such statistics;

(3) conducting longitudinal studies, as well as regular and special surveys and data collections, necessary to report on the condition and progress of education;

(4) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, so as to provide information by gender, race, socioeconomic status, limited-English proficiency, and other population characteristics when such disaggregated information would facilitate educational and policy decisionmaking;

(5) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities; and

(6) acquiring and disseminating data on educational activities and student achievement in the United States compared with foreign nations.

(b) TRAINING PROGRAM.—The Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to appoint such employees as temporary fellows at the Center in order to assist the Center in carrying out its duties. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4031.

**SEC. 405. [20 U.S.C. 9004] PERFORMANCE OF DUTIES.**

(a) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—In carrying out the Commissioner's duties under this title, the Commissioner may award grants, and enter into contracts and cooperative agreements.

(2) DURATION.—Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than five years, and may be renewed at the

discretion of the Commissioner for an additional period of not more than five years.

(b) GATHERING INFORMATION.—

(1) SAMPLING.—The Commissioner may use the statistical method known as sampling to carry out the purpose of this title.

(2) SOURCE OF INFORMATION.—The Commissioner may, as the Commissioner considers appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, libraries, administrators, teachers, students, the general public, and such other individuals, organizations, agencies, and institutions as the Commissioner may consider appropriate; and

(B) by other offices within the Department and by other Federal departments, agencies, and instrumentalities.

(3) COLLECTION.—The Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Center to any such agency, organization, or institution to assist in such collection.

(4) TECHNICAL ASSISTANCE AND COORDINATION.—In order to maximize the effectiveness of Federal efforts to serve the educational needs of children and youth, the Commissioner shall—

(A) provide technical assistance to Department offices that gather data for statistical purposes; and

(B) coordinate closely with other Department offices in the collection of data. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4032.

**SEC. 406. [20 U.S.C. 9005] REPORTS.**

(a) REPORT ON THE CONDITION AND PROGRESS OF EDUCATION.—The Commissioner shall, not later than June 1, 1995, and each succeeding June 1 thereafter, submit to the President and the Congress a statistical report on the condition and progress of education in the United States.

(b) STATISTICAL REPORTS.—The Commissioner shall issue regular statistical reports to the President and Congress on such education topics as the Commissioner determines to be appropriate.

(c) SPECIAL REPORTS.—The Commissioner may, whenever the Commissioner considers it appropriate, issue special reports on particular education topics. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4033.

**SEC. 407. [20 U.S.C. 9006] ADVISORY COUNCIL ON EDUCATION STATISTICS.**

(a) ESTABLISHMENT.—There is established, within the Center, the Advisory Council on Education Statistics (hereafter in this title referred to as the “Council”).

(b) MEMBERSHIP.—

- (1) COMPOSITION.—The Council shall be composed of—
- (A) 18 voting members who are users of education data and who are appointed by the Secretary on the basis of their experience and eminence within the field of education, of whom at least—
- (i) three shall be practicing educators;
  - (ii) three shall be education policymakers;
  - (iii) three shall be professional statisticians;
  - (iv) three shall be education researchers; and
  - (v) three shall be experts in educational measurement;
- (B) three individuals representing the general public, appointed by the Secretary;
- (C) the Director of the Census and the Commissioner of Labor Statistics, as voting, ex officio members; and
- (D) the Assistant Secretary and the Commissioner, as nonvoting, ex officio members.
- (2) PRESIDING OFFICER.—The Commissioner shall appoint the presiding officer of the Council from among the voting members of the Council.
- (3) TERMS.—Members of the Council appointed under paragraph (1)(A) shall be appointed for three-year terms except that, in the case of initial appointments, the Secretary shall make appointments for shorter terms to the extent necessary to avoid the expiration of the terms of more than six members in the same calendar year.
- (4) MEETINGS.—(A) The Council shall meet in public session at the call of the presiding officer, except that the Council shall meet—
- (i) at least two times during each calendar year; and
  - (ii) in addition, whenever ten voting members request in writing that the presiding officer call a meeting.
- (B) Eleven voting members of the Council shall constitute a quorum.
- (5) SPECIAL RULE.—The Council shall—
- (A) review general policies for the operation of the Center and shall advise the Commissioner on standards to ensure that statistics and other information disseminated by the Center are of high quality and are not subject to partisan political influence; and
- (B) advise the Commissioner and the National Assessment Governing Board on technical and statistical matters related to the National Assessment of Educational Progress.
- (6) STAFF.—The Council shall appoint a staff of not more than six individuals with technical expertise to enable the Council to carry out its duties. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4033.

**SEC. 408. [20 U.S.C. 9007] CONFIDENTIALITY.**

(a) CONFIDENTIALITY STANDARDS.—

- (1) IN GENERAL.—(A) The Center shall develop and enforce standards designed to protect the confidentiality of persons in

the collection, reporting, and publication of data under this title.

(B) This section shall not be construed to protect the confidentiality of information about institutions, organizations, and agencies that receive grants from, or have contracts or cooperative agreements with, the Federal Government.

(2) PROHIBITION.—No person may—

(A) use any individually identifiable information furnished under this title for any purpose other than a statistical purpose;

(B) make any publication whereby the data furnished by any particular person under this title can be identified; or

(C) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports.

(b) ADMINISTRATION.—

(1) IN GENERAL.—No department, bureau, agency, officer, or employee of the Federal Government, except the Commissioner in carrying out the purposes of this title, shall require, for any reason, copies of reports that have been filed under this title with the Center or retained by any individual respondent. Copies of such reports that have been so filed or retained with the Center or any of the Center's employees, contractors, or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This paragraph shall apply only to individually identifiable information (as defined in paragraph (5)(A)).

(2) EMPLOYEE OR STAFF VIOLATIONS.—Whoever, being or having been an employee or staff member of the Department, having taken or subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a)(2), knowingly publishes or communicates any individually identifiable information (as defined in paragraph (5)(A)), the disclosure of which is prohibited by subsection (a)(2), and that comes into such employee or staff's possession by reason of employment (or otherwise providing services) under this title, shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(3) TEMPORARY STAFF.—The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies), and employees of private organizations to assist the Center in performing the Center's responsibilities, but only if such temporary staff are sworn to observe the limitations imposed by this section.

(4) INFORMATION REQUIREMENTS.—No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination, or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations estab-

lished pursuant to chapter 35 of title 44, United States Code, except such collection of information or data acquisition activity may be subject to review or coordination if the Commissioner determines that such review or coordination is beneficial.

(5) DEFINITIONS.—For the purposes of this section—

(A) the term “individually identifiable information” means any record, response form, completed survey, or aggregation thereof from which information about particular individuals may be revealed; and

(B) the term “report” means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed.

(6) VIOLATIONS.—Any person who uses any data provided by the Center, in conjunction with any other information or technique, to identify any individual student, teacher, administrator, or other individual and who knowingly discloses, publishes, or uses such data for a purpose other than a statistical purpose, or who otherwise violates subparagraph (A) or (B) of subsection (a)(2), shall be found guilty of a class E felony and imprisoned for not more than five years, or fined as specified in section 3571 of title 18, United States Code, or both.

(7) ACCESS TO REPORTS OR RECORDS.—Nothing in this section shall restrict the right of the Secretary, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Librarian of Congress, to gain access to any reports or other records, including information identifying individuals, in the Center’s possession, except that the same restrictions on disclosure that apply under paragraphs (1) and (6) shall apply to such individuals. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4034.

**SEC. 409. [20 U.S.C. 9008] DISSEMINATION.**

(a) GENERAL REQUESTS.—

(1) IN GENERAL.—The Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) COMPILATIONS.—The Center shall provide State and local educational agencies opportunities to suggest the development of particular compilations of statistics, surveys, and analyses that would assist those educational agencies.

(b) CONGRESSIONAL REQUESTS.—The Center shall furnish such special statistical compilations and surveys as the Congress may request.

(c) JOINT STATISTICAL PROJECTS.—The Secretary may engage in joint statistical projects related to the purposes of this title, or other statistical purposes authorized by law, with nonprofit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) FEES.—

(1) IN GENERAL.—Statistical compilations and surveys under this section, other than those carried out pursuant to

subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

(2) FUNDS RECEIVED.—All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) ACCESS.—

(1) OTHER AGENCIES.—The Center shall, consistent with section 408, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Center.

(2) INTERESTED PARTIES.—The Center shall, in accordance with such terms and conditions as the Secretary may prescribe, provide all interested parties, including public and private agencies and individuals, direct access to data collected by the Center for the purposes of research and acquiring statistical information. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4035.

**SEC. 410. [20 U.S.C. 9009] COOPERATIVE EDUCATION STATISTICS SYSTEMS.**

(a) IN GENERAL.—The Commissioner may establish one or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on elementary and secondary education, postsecondary education, and libraries, that are useful for policymaking at the Federal, State, and local levels. In carrying out this section, the Commissioner may provide technical assistance, and make grants and enter into contracts and cooperative agreements.

(b) MODEL DATA SYSTEM.—The Commissioner, working through the cooperative education statistics system, shall study, design, and pilot a model data system that will yield information about spending for administration at the school and local education agency levels. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4036.

**SEC. 411. [20 U.S.C. 9010] NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.**

(a) ESTABLISHMENT.—The Commissioner shall, with the advice of the National Assessment Governing Board established under section 412, and with the technical assistance of the Advisory Council established under section 407, carry out, through grants, contracts, or cooperative agreements with one or more qualified organizations, or consortia thereof, a National Assessment of Educational Progress (hereafter in this title referred to as the “National Assessment”).

(b) PURPOSE; STATE ASSESSMENTS.—

(1) PURPOSE.—The purpose of the National Assessment is to provide a fair and accurate presentation of educational achievement in reading, writing, and the other subjects included in the third National Education Goal, regarding student achievement and citizenship. The Commissioner, in carrying out the National Assessment, shall use sampling techniques



that produce data that are representative on a national and regional basis, and on a State basis pursuant to paragraph (2). In addition, the Commissioner shall—

(A) collect and report data on a periodic basis, but at least once every two years, on students at ages 9, 13, and 17 and in grades 4, 8, and 12 in public and private schools;

(B) report achievement data on a basis that ensures valid and reliable trend reporting;

(C) include information on special groups, including, whenever feasible, information collected, cross-tabulated, analyzed, and reported by sex, race or ethnicity and socioeconomic status; and

(D) ensure that achievement data are made available on a timely basis following official reporting, in a manner that facilitates further analysis.

(2) STATE ASSESSMENTS.—(A)(i) The Commissioner, in carrying out the National Assessment, may conduct State assessments of student achievement in grades 4, 8, and 12.

(ii) Each such State assessment, in each subject area and at each grade level, shall be conducted on a developmental basis until the Commissioner determines, as the result of an evaluation required by subsection (f), that such assessment produces high quality data that are valid and reliable.

(B)(i) States wishing to participate in State assessments shall enter into an agreement with the Secretary pursuant to subsection (d)(2).

(ii) Such agreement shall contain information sufficient to give States full information about the process for consensus decisionmaking on objectives to be tested, and the standards for sampling, test administration, test security, data collection, validation, and reporting.

(C) A participating State shall review and give permission for the release of results from any test of its students administered as a part of a State assessment prior to the release of such data. Refusal by a State to release its data shall not restrict the release of data from other States that have approved the release of such data.

(3) PROHIBITED DATA.—In carrying out the National Assessment, the Commissioner shall not collect any data that are not directly related to the appraisal of educational performance, achievement, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

(4) TECHNICAL ASSISTANCE.—In carrying out the National Assessment, the Commissioner may provide technical assistance to States, localities, and other parties.

(c) ACCESS.—

(1) PUBLIC ACCESS.—Except as provided in paragraph (2), the public shall have access to all data, questions, and test instruments of the National Assessment.

(2) PERSONALLY IDENTIFIABLE INFORMATION.—(A) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families, and that information with respect to individual

schools, remains confidential, in accordance with section 552a of title 5, United States Code.

(B) Notwithstanding any other provision of law, the Commissioner may decline to make available to the public for a period, not to exceed ten years after initial use, cognitive questions that the Commissioner intends to reuse in the future.

(d) PARTICIPATION.—

(1) NATIONAL AND REGIONAL.—Participation in the national and regional assessments by State and local educational agencies shall be voluntary.

(2) STATE.—Participation in assessments made on a State basis shall be voluntary. The Commissioner shall enter into an agreement with any State that desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to ensure that the State will—

(A) participate in the assessment; and

(B) pay from non-Federal sources the non-Federal share of such participation.

(3) NON-FEDERAL SHARE.—(A) For each fiscal year, the non-Federal share for the purpose of paragraph (2)(B) shall be—

(i) the cost of conducting the assessment at the school level for all public schools in the State sample;

(ii) the cost of coordination within the State; and

(iii) other reasonable costs specified by the Secretary in the agreement described in paragraph (2), such as the cost of analyzing and reporting the data.

(B) The non-Federal share of payments under this paragraph may be in cash or in kind, fairly valued.

(C) The agreement described in paragraph (2) shall describe the manner in which the costs of administering the assessment to private nonprofit schools included in the State sample will be met.

(e) STUDENT PERFORMANCE LEVELS.—

(1) PERFORMANCE LEVELS.—The National Assessment Governing Board, established under section 412, shall develop appropriate student performance levels for each age and grade in each subject area to be tested under the National Assessment.

(2) DEVELOPMENT OF LEVELS.—(A) Such levels shall be—

(i) devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the general public;

(ii) used on a developmental basis until the Commissioner determines, as the result of an evaluation under subsection (f), that such levels are reasonable, valid, and informative to the public; and

(iii) updated as appropriate.

(B) In using such levels on a developmental basis, the Commissioner and the Board shall ensure that reports that use such levels do so in a manner that makes clear the developmental status of such levels.

(3) REPORTING.—After determining that such levels are reasonable, valid, and informative to the public, as the result of an evaluation under subsection (f), the Commissioner shall use such levels or other methods or indicators for reporting results of the National Assessment and State assessments.

(f) REVIEW OF NATIONAL AND STATE ASSESSMENTS.—

(1) IN GENERAL.—(A) The Secretary shall provide for continuing review of the National Assessment, State assessments, and student performance levels, by one or more nationally recognized evaluation organizations, such as the National Academy of Education and the National Academy of Sciences.

(B) Such continuing review shall address—

(i) whether each developmental State assessment is properly administered, produces high quality data that are valid and reliable, and produces data on student achievement that are not otherwise available to the State (other than data comparing participating States to each other and the Nation); and

(ii) whether developmental student performance levels are reasonable, valid, and informative to the public.

(2) REPORT.—The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews.

(3) USE OF FINDINGS AND RECOMMENDATIONS.—The Commissioner shall consider the findings and recommendations of such reviews in designing the competition to select the organization, or organizations, through which the Commissioner carries out the National Assessment.

(g) COVERAGE AGREEMENTS.—

(1) DEPARTMENT OF DEFENSE SCHOOLS.—The Secretary and the Secretary of Defense may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment elementary and secondary schools operated by the Department of Defense.

(2) BUREAU OF INDIAN AFFAIRS SCHOOLS.—The Secretary and the Secretary of the Interior may enter into an agreement, including such terms as are mutually satisfactory, to include in the National Assessment schools for Indian children operated or supported by the Bureau of Indian Affairs. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4036.

**SEC. 412. [20 U.S.C. 9011] NATIONAL ASSESSMENT GOVERNING BOARD.**

(a) ESTABLISHMENT.—There is established the National Assessment Governing Board (hereafter in this title referred to as the “Board”), which shall formulate policy guidelines for the National Assessment.

(b) MEMBERSHIP.—

(1) APPOINTMENT AND COMPOSITION.—The Board shall be appointed by the Secretary and be composed of—

(A) two Governors, or former Governors, who shall not be members of the same political party;

(B) two State legislators, who shall not be members of the same political party;

(C) two chief State school officers;

- (D) one superintendent of a local educational agency;
- (E) one member of a State board of education;
- (F) one member of a local board of education;
- (G) three classroom teachers representing the grade levels at which the National Assessment is conducted;
- (H) one representative of business or industry;
- (I) two curriculum specialists;
- (J) three testing and measurement experts, who shall have training and experience in the field of testing and measurement;
- (K) one nonpublic school administrator or policymaker;
- (L) two school principals, of whom one shall be an elementary school principal and one shall be a secondary school principal; and
- (M) four additional members who are representatives of the general public, including parents.

(2) ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH.—The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio, nonvoting member of the Board.

(3) SPECIAL RULE.—The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender, and cultural balance and diversity and that the Board exercises its independent judgment, free from inappropriate influences and special interests.

(c) TERMS.—

(1) IN GENERAL.—Terms of service of members of the Board shall be staggered and may not exceed a period of 3 years, as determined by the Secretary.

(2) SERVICE LIMITATION.—Members of the Board may serve not more than two terms.

(3) CHANGE OF STATUS.—A member of the Board who changes status under subsection (b) during the term of the appointment of the member may continue to serve as a member until the expiration of such term.

(d) VACANCIES.—

(1) IN GENERAL.—(A) The Secretary shall appoint new members to fill vacancies on the Board from among individuals who are nominated by organizations representing the type of individuals described in subsection (b)(1) with respect to which the vacancy exists.

(B) Each organization submitting nominations to the Secretary with respect to a particular vacancy shall nominate for such vacancy six individuals who are qualified by experience or training to fill the particular Board vacancy.

(C) The Secretary's appointments shall maintain the composition, diversity, and balance of the Board required under subsection (b).

(2) ADDITIONAL NOMINATIONS.—The Secretary may request that each organization described in paragraph (1)(A) submit additional nominations if the Secretary determines that none of the individuals nominated by such organization have appropriate knowledge or expertise.

(e) DUTIES.—

(1) IN GENERAL.—In carrying out its functions under this section the Board shall—

(A) select subject areas to be assessed (consistent with section 411(b)(1));

(B) develop appropriate student performance levels as provided in section 411(e);

(C) develop assessment objectives and test specifications through a national consensus approach which includes the active participation of teachers, curriculum specialists, local school administrators, parents, and concerned members of the public;

(D) design the methodology of the assessment, in consultation with appropriate technical experts, including the Advisory Council established under section 407;

(E) develop guidelines for reporting and disseminating results;

(F) develop standards and procedures for interstate, regional, and national comparisons; and

(G) take appropriate actions needed to improve the form and use of the National Assessment.

(2) DELEGATION.—The Board may delegate any of the Board's procedural and administrative functions to its staff.

(3) COGNITIVE ITEMS.—The Board shall have final authority on the appropriateness of cognitive items.

(4) PROHIBITION AGAINST BIAS.—The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

(5) TECHNICAL.—In carrying out the duties required by paragraph (1), the Board may seek technical advice, as appropriate, from the Commissioner and the Advisory Council on Education Statistics and other experts.

(6) REPORT.—Not later than 90 days after an evaluation of the student performance levels under section 411(e), the Board shall make a report to the Secretary, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate describing the steps the Board is taking to respond to each of the recommendations contained in such evaluation.

(f) PERSONNEL.—

(1) IN GENERAL.—In the exercise of its responsibilities, the Board shall be independent of the Secretary and the other offices and officers of the Department.

(2) STAFF.—(A) The Secretary may appoint, at the request of the Board, such staff as will enable the Board to carry out its responsibilities.

(B) Such appointments may include, for terms not to exceed three years and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than six technical employees who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(g) COORDINATION.—The Commissioner and the Board shall meet periodically—

(1) to ensure coordination of their duties and activities relating to the National Assessment; and

(2) for the Commissioner to report to the Board on the Department's actions to implement the decisions of the Board.

(h) ADMINISTRATION.—Only sections 10, 11, and 12 of the Federal Advisory Committee Act shall apply with respect to the Board. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4039.

**SEC. 413. [20 U.S.C. 9012] AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated \$65,000,000 for fiscal year 1995 and such sums as may be necessary for each of the four succeeding fiscal years to carry out this title (other than sections 411 and 412).

(b) NATIONAL ASSESSMENT.—There are authorized to be appropriated \$35,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 411.

(c) GOVERNING BOARD.—There are authorized to be appropriated \$3,000,000 for fiscal year 1995 and such sums as may be necessary for each of the fiscal years 1996 and 1997 to carry out section 412. Enacted October 20, 1994, P.L. 103–382, 108 Stat. 4041.